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Attorneys for Plaintiff  
XOFT, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

\*E-FILED - 12/18/06\*

XOFT, INC., a Delaware corporation,

Plaintiff,

v.

CYTYC CORPORATION, a Delaware  
corporation, and PROXIMA  
THERAPEUTICS, INC., a Delaware  
corporation,

Defendants.

AND RELATED COUNTERCLAIMS.

Case No. C 05-05312 RMW

**~~PROPOSED~~ ORDER ALLOWING  
EQUIPMENT TO BE BROUGHT IN  
FOR THE DECEMBER 20, 2006  
TUTORIAL AND HEARING**

1 Plaintiff Xoft, Inc. respectfully requests permission from the Court to be allowed to bring  
 2 in and set up equipment described on the attached Schedule A, on December 19, 2006. This  
 3 equipment is to be used at the tutorial and claim construction hearing scheduled for December 20,  
 4 2006, in the above-entitled action. This equipment will be used solely for the purposes of the  
 5 tutorial and the hearing. Some of this equipment cannot go through x-ray machines and will need  
 6 to be searched by other means.

7 Respectfully submitted,

8 Dated: **November 21, 2006**

ORRICK, HERRINGTON & SUTCLIFFE LLP

10 By s/James W. Geriak  
 11 James W. Geriak  
 12 Kurt T. Mulville  
 13 Mark A. Stirrat  
 14 Monte Cooper  
 15 Attorneys for Plaintiff  
 16 XOFT, INC.

16 The Court hereby **GRANTS** Xoft, Inc.'s request to bring in the equipment listed on the  
 17 attached Schedule A for the December 20, 2006 tutorial and hearing. The equipment may be  
 18 brought in and set up on December 19, 2006, the day before the tutorial and hearing. Counsel for  
 19 Xoft is to coordinate as needed with the U.S. Marshall's office and the courtroom deputy, Jackie  
 20 Vierra.

21 **IT IS SO ORDERED.**

23 Dated: 12/18/06

24 /s/ Ronald M. Whyte  
 25 Honorable Ronald M. Whyte  
 26 United States District Judge

**SCHEDULE A**

**List of Equipment to be brought in on December 19, 2006**

1. Physical: Axxent™ Electronic Brachytherapy System including, but not limited to the Axxent™ HDR X-ray Source 2.2, Axxent™ Balloon Applicator-BR, Axxent™ Controller, Axxent™ FlexiShield, and supplies
2. Treatment Planning Laptop
3. Physical: mannequin
4. Physical: drapes
5. Physical: USB Flash Memory
6. Physical: Cooling Tube Set
7. Physical: Sterile Water Bag
8. Bar Codes
9. Physical: Rolling Shield Screen
10. Associated wires, cables, peripherals, extension cords, power strips, adapters, and tools to install and connect the above equipment.

**CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that on **November 21, 2006**, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send electronic notification of such filing to the following individual(s):

Henry C. Bunsow  
Henry C. Su  
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suh@howrey.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on **November 21, 2006**, at Irvine, California.

s/James W. Geriak

James W. Geriak